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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte THOMAS GEISLER

Appeal 2009-003739
Application 09/673,313
Technology Center 2600

Before ROBERT E. NAPPI, JAY P. LUCAS, and
BRADLEY W. BAUMEISTER, *Administrative Patent Judges*.

BAUMEISTER, *Administrative Patent Judge*.

DECISION ON APPEAL¹

¹ The two-month time period for filing an appeal or commencing a civil action, as recited in 37 C.F.R. § 1.304, or for filing a request for rehearing, as recited in 37 C.F.R. § 41.52, begins to run from the “MAIL DATE” (paper delivery mode) or the “NOTIFICATION DATE” (electronic delivery mode) shown on the PTOL-90A cover letter attached to this decision.

STATEMENT OF THE CASE

Appellant appeals under 35 U.S.C. §§ 6(b) and 134(a) from the Examiner's final rejection of claims 1-13.

We REVERSE.

Appellant's invention relates to "a method for representing moving objects in bit-mapped format on a matrixlike display device" (Abstract). For example, the method could be used to graphically represent a moving speedometer needle or "pointer" on a bitmapped speedometer display (claim 13). The method includes (1) calculating a plurality of bit maps for a certain number of object representations; (2) storing these bit maps in memory; and subsequently (3) generating a display of the moving object from at least the stored bit maps (*see, e.g.*, claims 1 and 5). Independent claim 1 is illustrative, reading as follows:

1. A method for representing an object in bit-mapped format on a matrixlike display device, having the following steps:

calculating a plurality of bit maps for a certain number of various object representations along a predetermined path curve in advance;

storing the plurality of bit maps in memory in advance;
and

executing a representation processing with a display sequence of object representations along the path curve by reading and displaying correspondingly memorized bit maps, wherein the object moves along the path curve during the representation processing and displaying of the correspondingly memorized bit maps.

Claims 1-6, 8, 9, 11, and 12 stand rejected under 35 U.S.C. § 103(a) as obvious over Van de Lavoie (US 5,408,603, issued Apr. 18, 1995).

Claims 7, 10, and 13 stand rejected under 35 U.S.C. § 103(a) as obvious over Van de Lavoie in view of Iwamoto (US 5,359,531, issued Oct. 25, 1994).

The indefiniteness rejection of claims 1 and 2 under 25 U.S.C. § 112, ¶ 2 is withdrawn (Ans. 2).

ANALYSIS

The Examiner states in relation to claim 1 that “Van de Lavoie does not explicitly specify the calculation of bit maps for a certain number of various objects” (Ans. 8). The Examiner, nonetheless, concludes, though;

It would [sic:] be have been obvious to one of ordinary skill in the art at the time the invention was made to [sic: calculate and store the ?] visual appearance of a data logical flow or logic flow, in order to allow the visual quality or color of the symbols and the interconnecting network to change in accordance with live data received from the plant or process being controlled. Also it provides rapidly interpreting complex process control statements and permitting fast switching between different process control statements.

(*Id.*).

That is, the Examiner acknowledges Appellant’s contention (Br. 9-10) that the cited prior art does not teach every limitation of the claim. Furthermore, the Examiner has not properly invoked Official Notice of facts that constitute “well known” prior art (*see* Ans. 3-12; *cf.* MPEP 2144.03

(setting forth the procedure for invoking Official Notice)). Accordingly, the Examiner has not established a prima facie case of obviousness. *See In re Royka*, 490 F.2d 981, 985 (CCPA 1974) (noting that all claim limitations must be taught or suggested by the prior art in order to establish prima facie obviousness of a claimed invention). We therefore do not sustain the Examiner's rejection of claim 1 or of claims 2-6, 8, 9, 11, and 12, which depend from claim 1.

With respect to the remaining rejection of dependent claims 7, 10, and 13, the Examiner has not alleged that Iwamoto discloses the limitation missing from Van de Lavoie. Rather, the Examiner relies upon Iwamoto for teachings relating to a pixel interpolation process (Ans. 10). Accordingly, the Examiner's reliance on Iwamoto does not cure the deficiency of the obviousness rejection explained above.

DECISION

We do not sustain the Examiner's rejections with respect to all pending claims on appeal. Therefore, the Examiner's decision rejecting claims 1-13 is reversed.

REVERSED

Appeal 2009-003739
Application 09/673,313

gvw

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